

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD M. SMITH,

Plaintiff,

CIVIL ACTION NO. 06-CV-12402-DT

VS.

DISTRICT JUDGE LAWRENCE P. ZATKOFF

KELVIN SIMOWSIK, et al.,

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendants.

**OPINION AND ORDER DENYING PLAINTIFF'S REQUEST FOR
SERVICE OF UNITED STATES MARSHAL**

Before the Court is Plaintiff's Request for Service of United States Marshal filed on November 14, 2006. (Docket no. 22). This matter is ready for ruling pursuant to 28 U.S.C. § 636(b)(1)(A).

Plaintiff is a prisoner proceeding in this civil rights action pursuant to 42 U.S.C. § 1983. The action was removed from state court by three of the Defendants. The other three Defendants have not yet been served. In this request, Plaintiff asks the Court to have the US Marshal serve Defendant Fields who is apparently now working at the Wayne County Sheriff's Department. However, Plaintiff has not been granted *in forma pauperis* status so that the Court could order service under 28 U.S.C. § 1915(d). Therefore, Plaintiff's request will be denied. Before IFP status could be determined, Plaintiff must submit a financial affidavit as required in section 1915(a)(1). The Court will therefore send Plaintiff an Application to Proceed without Prepayment of Fees and Costs and Authorization to Withdraw Funds from Prison Trust Account. Plaintiff should complete the portion that he can complete and have the prison personnel responsible for his prison trust account complete the remaining portion, and return the affidavit to the Court.

IT IS THEREFORE ORDERED that Plaintiff's Request for Service of United States Marshal be DENIED WITHOUT PREJUDICE.

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: November 30, 2006

s/ Mona K. Majzoub

MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Opinion and Order was served upon Donald M. Smith and Counsel of Record on this date.

Dated: November 30, 2006

s/ Lisa C. Bartlett

Courtroom Deputy